

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 406

Introduced by Senator DeSaulnier

February 26, 2009

An act to amend Section 65040.6 of, and to add and repeal Section 65083 of to, the Government Code, to amend Section 75125 of the Public Resources Code, and to add and repeal Section 9250.6 of to the Vehicle Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 406, as amended, DeSaulnier. Land use: environmental quality.

The Planning and Zoning Law establishes the Planning Advisory and Assistance Council in the Office of Planning and Research, and prescribes the membership and duties of the council. Existing law authorizes the Department of Motor Vehicles to collect a surcharge imposed on vehicle registration fees by ordinance or resolution of a local entity.

This bill would change the designated membership, as specified, of the Planning Advisory and Assistance Council and would require that the council work with the Strategic Growth Council, *regional agencies, and cities and counties to facilitate the implementation of regional blueprint projects*, as specified. The bill would also require the council to report to the Legislature on specified regional performance measures and on the manner in which state agencies are implementing the 5-year infrastructure plan, *as specified*. The bill would authorize a municipal planning organization, *as defined*, ~~or a council of governments, as defined, or a county transportation commission and a subregional council of governments jointly preparing a subregional sustainable communities strategy~~ to adopt a resolution to impose a surcharge of up

~~to \$2-motor vehicle registration surcharge~~ on *motor* vehicles registered to an owner with an address in the entity's or entities' jurisdiction that would be collected by the Department of Motor Vehicles and, after deducting its administrative costs, would be transmitted to the entity or entities imposing the surcharge. The bill would require that the surcharge revenue be expended to develop and implement a regional blueprint plan and would specify that 5% of the surcharge revenue be transmitted to the council for performance of its functions. The bill would provide that the council is to perform specified new functions only when the council has received sufficient revenue from this source.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares the
2 following:

3 (1) Uncoordinated and unplanned growth together with a lack
4 of common goals to effect the public's interest in the conservation
5 and wise use of our lands; pose a threat to the environment,
6 sustainable economic development, and the health, safety, and
7 high quality of life enjoyed by residents of this state.

8 (2) *The enactment of Senate Bill 375 of the 2007–08 Regular*
9 *Session (Chapter 728 of the Statutes of 2008) and the establishment*
10 *of requirements for regional transportation plans to address*
11 *greenhouse gases can only be successfully implemented if regional*
12 *and local governments have the tools they need to collaboratively*
13 *plan for the type of growth that can achieve these goals, and if*
14 *that collaborative planning is coordinated with the efforts of the*
15 *Governor's Strategic Growth Council and other state agencies as*
16 *required by the enactment of Senate Bill 732 of the 2007–08*
17 *Regular Session (Chapter 729 of the Statutes of 2008).*

18 (2)

19 (3) Therefore, it is in the public interest that state residents,
20 communities, local governments, and the private sector cooperate
21 and coordinate with one another in comprehensive, sustainable
22 land use planning.

23 (b) It is the intent of the Legislature to update the duties and
24 composition of the Planning Advisory and Assistance Council to
25 assist in the state's land use planning processes by providing

1 funding to support the development and implementation for
2 regional blueprints and related planning and to work with state
3 agencies providing funding for resource protection and local
4 infrastructure to facilitate coordination between state planning and
5 funding decisions and regional blueprints.

6 SEC. 2. Section 65040.6 of the Government Code is amended
7 to read:

8 65040.6. (a) The Planning Advisory and Assistance Council
9 is hereby created within the office, the membership of which shall
10 be as follows: three city representatives; three county
11 representatives; seven representatives of regional planning
12 organizations; one member of the State Air Resources Board; *one*
13 *member of the California Transportation Commission*; one member
14 of the State Energy Resource Conservation and Development
15 Commission; one member appointed by *the* Speaker of Assembly;
16 one member appointed by the Senate Committee on Rules; and
17 one representative of Indian tribes and bands which have
18 reservations or rancherias within California. The city and county
19 representatives appointed pursuant to this subdivision shall be
20 selected by the director from nominees submitted by the League
21 of California Cities and by the California State Association of
22 Counties. Representatives of regional planning organizations
23 appointed pursuant to this subdivision shall be selected by the
24 director from nominees submitted by the regional planning
25 organizations set forth in paragraphs (1) to (5), inclusive, of
26 subdivision (b) and from nominees submitted by the California
27 Association of Councils of Governments for the representatives
28 of organizations set forth in paragraphs (6) and (7) of subdivision
29 (b). The representative of Indian tribes and bands shall be a member
30 of one tribe or band, and shall be selected by the director.

31 Appointment to the advisory council shall be for a term of two
32 years, provided that the members of the first council shall classify
33 themselves by lot so that one-half shall serve an initial term of one
34 year and one-half shall serve an initial term of two years. Vacancies
35 shall be filled in the same manner provided for the original
36 appointment.

37 (b) Seven of the council's members shall be from the governing
38 body of each of the following:

39 (1) The Southern California Association of Governments.

1 (2) The Metropolitan Transportation Commission or the
2 Association of Bay Area Governments. The person appointed to
3 the council pursuant to this paragraph shall be a member of the
4 governing body for both the Metropolitan Transportation
5 Commission and the Association of Bay Area Governments.

6 (3) The San Diego Association of Governments.

7 (4) The Sacramento Area Council of Governments.

8 (5) The San Joaquin Valley Regional Policy Council.

9 (6) A metropolitan planning organization ~~of~~ *or* council of
10 governments that is not identified in paragraphs (1) to (5),
11 inclusive.

12 (7) A regional transportation planning agency, as defined in
13 Section 65080, that is neither a metropolitan planning organization
14 nor a council of governments.

15 (c) The council shall provide such advice as may be necessary
16 to assist the office in discharging the requirements of Sections
17 65040 to 65040.4, inclusive. In particular, the council shall:

18 (1) Assist the office in the preparation of the state long-range
19 goals and policies, in the manner specified in subdivision (a) of
20 Section 65040.

21 (2) Evaluate the planning functions of the various state agencies
22 involved in planning, in the manner specified in subdivision (c)
23 of Section 65040.

24 (3) Make appropriate decisions and provide such advice and
25 assistance as may be required by federal statute or regulation in
26 connection with any federal program administered by the office.

27 (4) Work with the Strategic Growth Council, created pursuant
28 to Section 75121 of the Public Resources Code, regional agencies,
29 such as metropolitan planning organizations or councils of
30 governments, and with cities and counties to facilitate the
31 implementation of regional blueprint projects.

32 (5) Develop recommendations to the Strategic Growth Council,
33 created pursuant to Section 75121 of the Public Resources Code,
34 ~~to the Department of General Services, to the State Allocation~~
35 ~~Board, to the Department of Housing and Community~~
36 ~~Development, to the California Transportation Commission, to~~
37 *the Department of General Services, the State Allocation Board,*
38 *the Department of Housing and Community Development, the*
39 *California Transportation Commission, the California Housing*
40 *and Finance Agency, and to any other state agencies to facilitate*

1 ~~the any other state agencies in order to facilitate~~ coordination
2 between regional blueprint plans and state growth and infrastructure
3 funding plans.

4 (6) Receive reports, including, but not limited to, a copy of the
5 five-year infrastructure plan described in Section 13102.

6 (7) Report to the Legislature, in consultation and coordination
7 with the Strategic Growth Council, created pursuant to Section
8 75121 of the Public Resources Code, on the manner in which state
9 agencies are implementing the requirements of Chapter 1016 of
10 the Statutes of 2002.

11 (8) Report to the Legislature on regional performance measures,
12 evaluating the progress of each region of the state in improving
13 results for its residents in employment, environmental protection,
14 education, housing, mobility, and other criteria as determined by
15 the council. The council shall provide the Legislature with updates
16 to the report periodically, as the council determines is required.

17 (d) The council shall meet on call of the director of the office,
18 who shall convene at least two council meetings during each year.

19 (e) Council members shall serve without compensation, but
20 they may be reimbursed for actual expenses incurred in connection
21 with their duties.

22 (f) The council shall begin to perform the functions and other
23 duties set forth in paragraphs (4) to (8), inclusive, of subdivision
24 (c) when sufficient funding, as determined by the council, exists
25 from the revenue transmitted to it by ~~the metropolitan planning~~
26 ~~organization or council of governments~~ *metropolitan planning*
27 *organizations, councils of governments, or county transportation*
28 *commissions and subregional councils of governments jointly*
29 *preparing subregional sustainable communities strategies* pursuant
30 to subdivision (b) of Section 65083.

31 SEC. 3. Section 65083 is added to the Government Code, to
32 read:

33 65083. (a) A metropolitan planning organization, as defined
34 in Section 134 of Title 23 of the United States Code, ~~or a council~~
35 of governments, as defined in Section 65582, *or a county*
36 *transportation commission and a subregional council of*
37 *governments jointly preparing a subregional sustainable*
38 *communities strategy pursuant to subparagraph (C) of paragraph*
39 *(2) of subdivision (b) of Section 65080* may impose a surcharge of
40 up to two dollars (\$2) pursuant to Section 9250.6 of the Vehicle

1 Code, on a motor vehicle registered to an owner with an address
2 in its jurisdiction. The surcharge may be imposed only if the
3 metropolitan planning organization~~or~~, the council of governments
4 *or a county transportation commission and a subregional council*
5 *of governments jointly preparing a subregional sustainable*
6 *communities strategy* adopts a resolution authorizing the surcharge.
7 A resolution by the Metropolitan Transportation Commission or
8 the Association of Bay Area Governments to impose the surcharge
9 shall be jointly adopted by resolution of both of those entities, and
10 the revenue from the surcharge shall be divided in accordance with
11 an agreement between these two entities. *A resolution by a county*
12 *transportation commission or a subregional council of governments*
13 *within the jurisdiction of the Southern California Association of*
14 *Governments shall be jointly adopted by resolution of both of the*
15 *entities, and the revenue from the surcharge shall be divided in*
16 *accordance with an agreement between the two entities.*

17 (b) All revenue received pursuant to this section shall be used
18 by the metropolitan planning organization~~or by~~, the council of
19 governments~~solely to develop and implement~~, *or a county*
20 *transportation commission and a subregional council of*
21 *governments jointly preparing a subregional sustainable*
22 *communities strategy solely to develop and implement a sustainable*
23 *communities strategy or a regional blueprint plan to identify land*
24 *use strategies to reduce the use of motor vehicles in its jurisdiction*
25 *and thereby reduce emissions into the environment from motor*
26 *vehicles. If the surcharge exceeds one dollar (\$1), all amounts*
27 *above one dollar (\$1) in a jurisdiction with a population greater*
28 *than 300,000 shall be used to provide grants to cities, counties,*
29 *and cities and counties for planning and projects related to the*
30 *implementation of a regional blueprint plan.* The metropolitan
31 planning organization~~or the council of governments~~, *the council*
32 *of governments, or a county transportation commission and a*
33 *subregional council of governments jointly preparing a subregional*
34 *sustainable communities strategy* shall transmit 5 percent of all
35 surcharge revenue it receives pursuant to Section 9250.6 of the
36 Vehicle Code to the Planning Advisory and Assistance Council
37 created pursuant to Section 65040.6.

38 (c) For purposes of this section, a sustainable communities
39 strategy and an alternative planning strategy shall both be
40 considered to be a regional blueprint.

1 ~~(d) This section shall remain in effect only until January 1, 2020,~~
2 ~~and as of that date is repealed, unless a later enacted statute, that~~
3 ~~is enacted before January 1, 2020, deletes or extends that date.~~

4 SEC. 4. Section 75125 of the Public Resources Code is
5 amended to read:

6 75125. The council shall do all of the following:

7 (a) Identify and review activities and funding programs of
8 member state agencies that may be coordinated to improve air and
9 water quality, improve natural resource protection, increase the
10 availability of affordable housing, improve transportation, meet
11 the goals of the California Global Warming Solutions Act of 2006
12 (Division 25.5 (commencing with Section 38500) of the Health
13 and Safety Code), encourage sustainable land use planning, and
14 revitalize urban and community centers in a sustainable manner.
15 At a minimum, the council shall review and comment on the
16 five-year infrastructure plan developed pursuant to Article 2
17 (commencing with Section 13100) of Chapter 2 of Part 3 of
18 Division 3 of the Government Code and the State Environmental
19 Goals and Policy Report developed pursuant to Section 65041 of
20 the Government Code.

21 (b) Recommend policies and investment strategies and priorities
22 to the Governor, the Legislature, and to appropriate state agencies
23 to encourage the development of sustainable communities, such
24 as those communities that promote equity, strengthen the economy,
25 protect the environment, and promote public health and safety,
26 and is consistent with subdivisions (a) and (c) of Section 75065.

27 (c) Provide, fund, and distribute data and information to local
28 governments and regional agencies that will assist in developing
29 and planning sustainable communities.

30 (d) Manage and award grants and loans to support the planning
31 and development of sustainable communities, pursuant to Sections
32 75127, 75128, and 75129. To implement this subdivision, the
33 council may do all of the following:

34 (1) Develop guidelines for awarding financial assistance,
35 including criteria for eligibility and additional consideration.

36 (2) Develop criteria for determining the amount of financial
37 assistance to be awarded. The council shall award a revolving loan
38 to an applicant for a planning project, unless the council determines
39 that the applicant lacks the fiscal capacity to carry out the project
40 without a grant. The council may establish criteria that would allow

1 the applicant to illustrate an ongoing commitment of financial
2 resources to ensure the completion of the proposed plan or project.

3 (3) Provide for payments of interest on loans made pursuant to
4 this article. The rate of interest shall not exceed the rate earned by
5 the Pooled Money Investment Board.

6 (4) Provide for the time period for repaying a loan made
7 pursuant to this article.

8 (5) Provide for the recovery of funds from an applicant that fails
9 to complete the project for which financial assistance was awarded.
10 The council shall direct the State Controller to recover funds by
11 any available means.

12 (6) Provide technical assistance for application preparation.

13 (7) Designate a state agency or department to administer
14 technical and financial assistance programs for the disbursing of
15 grants and loans to support the planning and development of
16 sustainable communities, pursuant to Sections 75127, 75128, and
17 75129.

18 (e) No later than July 1, 2010, and every year thereafter, provide
19 a report to the Legislature that shall include, but is not limited to,
20 all of the following:

21 (1) A list of applicants for financial assistance.

22 (2) Identification of which applications were approved.

23 (3) The amounts awarded for each approved application.

24 (4) The remaining balance of available funds.

25 (5) A report on the proposed or ongoing management of each
26 funded project.

27 (6) Any additional minimum requirements and priorities for a
28 project or plan proposed in a grant or loan application developed
29 and adopted by the council pursuant to subdivision (c) of Section
30 75216.

31 (7) In making recommendations pursuant to subdivisions (a)
32 and (b) and in providing data and information pursuant to
33 subdivision (c), the council shall consult with and coordinate its
34 recommendations with the Planning Advisory and Assistance
35 Council created pursuant to Section 65040.6 of the Government
36 Code.

37 SEC. 5. Section 9250.6 is added to the Vehicle Code, to read:

38 9250.6. (a) (1) In addition to any other fees specified in this
39 code, the Health and Safety Code, and the Revenue and Taxation
40 Code, a surcharge of up to two dollars (\$2) may be imposed by a

1 metropolitan planning organization ~~or by a council of governments,~~
2 *a council of governments, or a county transportation commission*
3 *and a subregional council of governments jointly preparing a*
4 *subregional sustainable communities strategy pursuant to*
5 *subparagraph (C) of paragraph (2) of subdivision (b) of Section*
6 65080, and shall be paid to the department as follows:

7 (A) Upon initial registration on or after the date the department
8 begins collecting the fee ~~of~~ for a motor vehicle not previously
9 registered in this state that is registered to an owner with an address
10 in the jurisdiction of the metropolitan planning organization ~~or,~~
11 *the council of governments, or the county transportation*
12 *commission and the subregional council of governments jointly*
13 *preparing a subregional sustainable communities strategy*
14 requesting imposition of the surcharge.

15 (B) Upon renewal of registration of a motor vehicle to an owner
16 with an address in the jurisdiction of the metropolitan planning
17 organization ~~or council of governments,~~ *the council of*
18 *governments, or the county transportation commission and the*
19 *subregional council of governments jointly preparing a subregional*
20 *sustainable communities strategy* requesting imposition of the
21 surcharge for which the registration period expires after the date
22 the department begins collecting the fee.

23 (2) This subdivision applies to a motor vehicle subject to Part
24 5 (commencing with Section 43000) of Division 26 of the Health
25 and Safety Code, except a vehicle that is expressly exempted under
26 this code from the payment of registration fees. The department
27 shall begin collecting the fee on January 1 of the year immediately
28 following the date the department receives the request to do so
29 from the metropolitan planning organization or council of
30 governments.

31 (b) Prior to the adoption of a surcharge pursuant to this section,
32 the metropolitan planning organization ~~or council of governments,~~
33 *the council of governments, or the county transportation*
34 *commission and the subregional council of governments jointly*
35 *preparing a subregional sustainable communities strategy* shall
36 approve the imposition of the surcharge through the adoption of
37 a resolution, as specified in Section 65083 of the Government
38 Code.

39 (c) The metropolitan planning organization or council of
40 governments shall pay for the costs identified by the department

1 to administer the surcharge. After deducting those costs, the
2 department shall transmit the surcharge revenue quarterly to the
3 metropolitan planning organization ~~or council of governments~~, *the*
4 *council of governments, or the county transportation commission*
5 *and the subregional council of governments jointly preparing a*
6 *subregional sustainable communities strategy.*

7 ~~(d) This section shall remain in effect only until January 1, 2020,~~
8 ~~and as of that date is repealed, unless a later enacted statute, that~~
9 ~~is enacted before January 1, 2020, deletes or extends that date.~~